IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 7693 of 2005

Between:

1 Gourani Nadipi Narsimloo S/o. Sayanna
R/o. Kama Reddy, District Nizamabad.
2 Shaik Muban S/o. Shaik Maheboob
R/o. Kama Reddy, District Nizamabad.
3 Shaik Maheboob S/o. Shaik Hussain
R/o. Kama Reddy, District Nizamabad.
4 K. Ramulu S/o. Veeraiah
R/o. Kama Reddy, District Nizamabad.
5 Sampangi Narsimloo S/o. Balaiah
R/o. Adloor Village, Kamareddy Mandal, District Nizamabad.
6 Smt. Dubbaka Laxmi W/o. Narsimloo,
R/o. H.No. 1-12-199, Bathukammakunta, Kamareddy,

District Nizamabad.
7 G. Shankar Reddy S/o. Linga Reddy
R/o. Kamareddy Mandal, District Nizamabad.

... PETITIONERS

AND

The Mandal Revenue Officer, Kamareddy Mandal, District Nizamabad.

...RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the cancellation of assignment order passed by the respondent in Proc.No. A2/6689/2005, dt. 7-1-2005 as illegal, arbitrary and violation

of principles of Natural Justice and consequently set-aside the same in the interest of justice and pass such other order or orders as this Hon'ble Court may be deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.S.BHOOMA GOUD

Counsel for the Respondent: GP FOR REVENUE

The Court, at the stage of admission, made the following:

ORDER:

Heard learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for the respondent.

This writ petition is filed aggrieved by the order dated 07-01-2005 passed by the respondent-Mandal Revenue Officer thereby canceling the assignment granted in favour of the petitioners.

It is not in dispute that before passing the impugned order, a show cause notice dated 30-11-2002 was issued to the petitioners stating that as per the instructions of the Joint Collector, Nizamabad dated 18-11-2002 spot inspection of Government lands assigned to landless poor was conducted on 24-11-2002 and it was noticed that the persons to whom the Government lands were assigned in the year 1978 have not occupied the lands and not developed them for agricultural purpose and therefore calling upon them to submit their explanation.

Petitioners state that all the allegations made in the show cause notice are incorrect and a detailed explanation was submitted by them denying the allegations made therein. However, the respondent has passed the impugned order without properly appreciating the explanation submitted by them. Hence, this writ petition seeking a declaration that the order of cancellation dated 07-01-2005 is arbitrary and illegal.

At the out set, the learned Government Pleader, raised an objection as to the maintainability of the writ petition contending that against the impugned order dated 07-01-2005 an efficacious alternative remedy is available by way of appeal under Section 4-A of the A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short' the Act').

Learned counsel for the petitioners does not dispute the said fact but states that since the impugned proceedings were initiated on the basis of the instructions of the Joint Collector, Nizamabad, petitioners apprehend that the appeal will be an empty formality and the appellate authority, being a subordinate officer to the Joint Collector, may not act independently.

In the circumstances, the writ petition is disposed of granting leave and liberty to the petitioners to workout the alternative remedy of appeal, as provided under the Act, within a period of two weeks from today. It is made clear that in the event of preferring such an appeal, the appellate authority shall consider the same independently, without being influenced by the observations, if any, made in the instructions issued by the Joint Collector dated 18-11-2002 and pass appropriate orders in accordance with law, on the basis of the material that may be placed before him by the petitioners in support of their claim. It is also made clear that for a period of four weeks from today, the respondent shall not implement the impugned order. No order as to costs.

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G. ROHINI, J

Dated: 07-04-2005

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To

1) The Mandal Revenue Officer, Kamareddy Mandal, District

Nizamabad.

2) 2 CCs to G.P for Revenue, High Court Buildings, Hyd.(OUT)

3) 2 CD copies.